IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Crl.MC.No. 3738 of 2007()

CP.127/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, THIRUVALLA

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PETITIONER: ACCUSED IN CP.127/07

SANTHOSH, AGED 35,
PUTHENVEEDU, NADUVILA MURI,
NADUBRAM VILLAGE, THIRUVALLA TALUK.

BY ADV. SRI.AJITH MURALI

RESPONDENTS: COMPLAINANT IN CP.127/07

STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR ,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3738 of 2007

Dated this the 14th day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. The petitioner was not arrested at any stage of the proceedings. Final report has been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioner had not received any notice or processes of the court, it is submitted. Consequently reckoning him as an absconding accused, a warrant of arrest has been issued against the petitioner. The petitioner finds such warrant of arrest chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the

circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself. Needless to say that the petitioner's application for regular bail must be considered in the light of the dictum in **Sukumari v. State of Kerala** [2001(1) K.L.T 22].

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-